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DEPARTMENT OF THE ARMY  
Omaha District, Corps of Engineers  
6014 U.S. Post Office and Courthouse  
Omaha, Nebraska 68102

DM 1130-2-11

Memorandum  
No. 1130-2-11

15 January 1982

Project Operations  
CULTURAL RESOURCES PROTECTION

1. Purpose. The purpose of this memorandum is to provide policy and guidance for the management and protection of cultural resources existing within the Omaha District Civil Works water resource projects.
2. Applicability. This memorandum is applicable to all elements of Omaha District having responsibilities associated with the management of Corps administered lands.
3. References.
  - a. Antiquities Act of 1906.
  - b. National Historic Preservation Act of 1966, as amended.
  - c. National Environmental Policy Act of 1969, as amended.
  - d. Executive Order 11593; Protection and Enhancement of the Cultural Environment.
  - e. Archeological Resources Protection Act of 1979.
  - f. Title 36 (36 CFR 327).
  - g. ER 1130-2-400.
  - h. ER 1130-2-420.
4. Definitions.
  - a. Cultural Resources. Any building, site, district, structure, object, data, or other material significant in history, architecture, science, archeology, or culture (33 CFR 305.4(d)).
  - b. Artifacts. Objects showing human workmanship or modification, as distinguished from naturally formed objects.

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This DM supersedes DM 405-1-1, 30 Dec 77.

5. Policy.

a. It is the policy of the Omaha District to protect and manage cultural resources on project lands. Recognizing that these resources are a nonrenewable part of our national heritage, this policy will insure that Corps lands will not be a source of artifacts for private collections but remain in the public trust to observe and study. To implement these policies, the following objectives shall be simultaneously pursued.

- (1) Post warning signs where necessary.
- (2) Mitigation.
- (3) Enforce existing laws.
- (4) Educate the public.

b. As the Antiquities Act of 1906, the Archeological Resources Protection Act of 1979, and regulations governing their implementation prohibit unauthorized persons or archeologists from removing objects of antiquity from Federal land, it is incumbent on District and Area personnel to investigate all suspected instances of illegal digging or appropriations. Antiquities permits may be issued to qualified individuals or institutions with demonstrated research ability in archeology as per the above laws and regulations.

c. It is also District policy that discovery of cultural resources be reported by the Area Engineer or representative to the Chief of Planning Division for appropriate action.

d. Considering the nature of project lands and the ease with which the lands are eroded, it shall be Corps policy to prohibit all illegal disturbances and collection of artifacts.

6. Implementation of Objectives.

a. Post Warning Signs: Recreation areas and areas determined by the Area Engineer/Project Manager shall be posted with information and warning signs. Signs will warn the public that cultural resources on public lands are protected by Federal legislation and agency regulations and that there are penalties for collecting, excavating, removing, or disturbing cultural resources on Federal lands.

b. Mitigation. When projects or people act to destroy cultural resources on Corps lands, it shall be the responsibility of the Corps to avoid, preserve, protect, or mitigate affected sites.

c. Enforce Existing Laws. Park Managers and Rangers will implement a surveillance program to monitor the unauthorized use of cultural resources.

The purpose of surveillance is to observe activities and conditions within the project area and to apply the citation authority to control unlawful collecting. Guidance for implementation of the citation authority is provided in ER 1130-2-420, Visitor Assistance Program. The scheduling of Corps personnel for surveillance duties will be consistent with manpower, funds, and other established work priorities. Citations will be issued to violators of cultural resource protection regulations. All illegally appropriated artifacts must be retained by right of ownership as Government property, subject to restrictions against forcible seizure of such artifacts, as set out in ER 1130-2-420, Visitor Assistance Program. Challenges to right of ownership must be settled by a U. S. Magistrate through a mandatory court appearance.

d. Public Education. By far, the most effective means to protect cultural resources are to educate the public. Making the public aware and knowledgeable of cultural resources encourages public support. The key to this support is to establish a societal value for cultural resources. People are inherently interested in our past and look for group identity and pride in past accomplishments in collections found in museums. Pillage by untrained excavators and private collectors misappropriates invaluable scientific and historic knowledge and public property. The most effective way to educate the public is by the mass media. The media can enlighten people about the value of conserving cultural resources and making them accessible to all. By reminding the public that knowledge of past events makes predicting the pattern of future events easier, support can be gained for protecting sites on Corps lands. Once a site has been disturbed by an inexperienced and unlicensed excavator, data pertaining to customs, past abstract thoughts, climate, evolution, geology, etc., will be lost. Public awareness of the importance for protecting cultural resources will encourage public involvement to report vandalism or activities that threaten sites, and the public may help to identify and report unknown sites. The media can be used to popularize regulations and penalties concerning archeological sites. Further, major public use areas can be posted with a general sign that states that it is prohibited to disturb and remove cultural artifacts. The sign can also state or warn about the penalties to violators.

## 7. Responsibilities.

a. Field personnel with citation authority are charged with the responsibility for protecting cultural resources on Corps land by making observations during routine duties, issuing citations, and photographically recording illegally appropriated artifacts, the implements used to obtain the artifacts, and the collector.

b. The project offices are responsible for posting signs at existing sites, giving press releases to the mass media, educating the public concerning the regulations and penalties for violations and enlightening the public

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on the value of archeological resources through public affairs programs, Eco-Meets, posting of regulations, brochures, and displays. Planning Division will furnish assistance in carrying out the responsibilities, if necessary.

c. All requests for permits to perform archeological work on Corps managed land within the Omaha District will be referred to Planning Division for review. Coordination for land availability will be in accordance with DM 1130-2-5 Outgrant Management. All application forms requesting Antiquities Permits to explore, gather, and excavate antiquities will be referred to the National Park Service. Concurrence with the Service will prompt issuance of a letter of permission to the National Park Service, subject to operational restrictions.

#### 8. Procedures.

a. If Corps personnel with citation authority discover illegal actions involving cultural resources, they will exercise one of the following citation procedures:

(1) If Corps personnel determine that the illegal activity is the result of "ignorance of the law," they will inform the violator that such activities are illegal. A warning citation will be issued and any collected artifacts will be retained as Government property, subject to the restriction against forcible seizure of artifacts. Corps personnel need to explain to these uninformed violators that cultural resources on public lands are not available for private collections. These resources are for the benefit of everyone and only qualified archeologists are allowed to excavate sites to obtain and preserve the inherent cultural data. Such violators can be encouraged to join amateur or avocational groups who often participate in discovering new sites, learn proper field techniques and methodology, and occasionally help excavate known sites under the supervision of a qualified archeologist holding a valid permit to explore, gather, and excavate objects of antiquity.

(2) If Corps personnel determine that the digging is willful and premeditated, a notice of violation citation will be issued. It is unlikely that people using the tools of the archeologists' trade, such as shovels, sifting screens, etc., are "ignorant of the law," and that these violators are not cognizant of laws protecting cultural resources. All collected artifacts will be retained because they are Government property and the Corps of Engineers has right of ownership. Note that violators cannot be unduly detained nor can their tools be confiscated; Corps personnel can, however, demand that the violators relinquish the appropriated artifacts, but may not forcibly seize those artifacts if they are not relinquished. Additionally, photographs can be taken of the collector, implements used, artifacts collected, and the disturbed site. The name and date of birth of the collectors and model and serial numbers of tools used are useful information to have for prosecution. If appropriate, uncooperative violators will be

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reported to local law enforcement officials. Engineer Regulation 1130-2-420, Visitor Assistance Program, gives guidance. It is the citation officer's responsibility to gather sufficient evidence to uphold the citation in court.

(3) Any collecting or digging activity will be reported to the Area Engineer or representative.

b. Procedures for Obtaining Antiquities Permits. Planning Division, in coordination with Real Estate Division, will refer all requests to explore, gather, and excavate cultural resources to the Secretary of the Interior or designated responsible land manager. Permits shall be issued in accordance with the conditions and terms set forth in the Antiquities Act of 1906 and the Archaeological Resources Protection Act of 1979.

c. Procedures for Notification of Archaeological Discoveries. Inadvertent discovery of cultural resource sites will be reported to the Area Engineer or representatives. The project office will notify Chief Planning Division. Planning Division will inform Operations Division and the District Engineer of site discovery as required. Planning Division will inform the appropriate State Historic Preservation Office of the existence of any archeological discovery.

d. Procedures for Reporting Graves or Cemetery Discoveries and their Disposition. Planning Division will coordinate plans with Real Estate Division for any necessary excavation, relocation and reburial. Location and number of burials that can be associated or identified with or without extant vital records or markers will be reported to the Chief, Planning Division, in narrative form, including an appropriate project map, with the site indicated thereon and photographs of the individual graves identified with numbered stakes. Discoveries requiring immediate protection will be reported by telephone followed with a written synopsis reflecting action taken and pertinent documentary evidence.



V. D. STIPO  
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Commanding

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